

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Health



March 15, 2006

Dear Business Owner,

I am writing to inform you of the new requirements associated with the “Department of Health Functions Clarification Amendment Act of 2006”, a new law that regulates smoking in public buildings and enclosed workplaces and becomes effective on Monday, April 3, 2006. The new law immediately prohibits smoking in workplaces and temporarily exempts the bar areas of restaurants, taverns, clubs, brew pubs, or nightclubs from the smoking prohibition until January 1, 2007. As you know, the District has had laws and regulations restricting smoking in workplaces and public places since 1979, and the Department of Health will be modifying and adding to the existing rules to make them comply with and clarify the new law.

For All Businesses

Until now, employers had to adopt a smoking policy for their employees and could, but were not required to designate a smoking area in a separate room with its own ventilation. In fact, many businesses chose to prohibit smoking, and the new law will have minimal impact on the businesses that chose to be smoke free. After April 3, 2006, businesses will no longer be able to maintain a separate smoking area in any enclosed workplace.

Restaurants, Bars, and Taverns

While the law prohibits smoking in most public places and businesses, including restaurants, it does provide a temporary exemption for the bar areas of restaurants, taverns, clubs, brew pubs, or nightclubs to allow smoking until January 1, 2007. To qualify for this temporary exemption your establishment must hold a license to sell alcohol on the premises as one of the following:

- A Tavern (Class C/T or D/T)
- A Club (Class C or D)
- A Brew pub permit (Classes C/R, D/R, C/T, or D/T)
- A Nightclub (Class C/N or D/N)
- A Restaurant (Class C/R or D/R). This exemption applies to the bar area only.

Enforcement

The new law authorizes the Department of Health to inspect all workplaces and public places to ensure compliance with the law. The Department of Health will issue warnings, and then fines, for violations. The maximum penalty for a violation is \$1,000.

The public may file a complaint by calling (202) 671-5000. In response to complaints, the Department of Health will send a letter to the business requesting compliance with the law and stating the penalties associated with noncompliance. If a business continues to be noncompliant, an inspector from the Department of Health will inspect the business and issue a notice of violation, if appropriate.

Exemptions

The law provides a limited exemption from the smoking ban of certain places that goes beyond January 1, 2007. These exemptions are:

- ✓ “A retail store that is used primarily for the sale of tobacco products and accessories in which total annual revenue generated by the sale of non-tobacco products or accessories is no greater than 25% of the total revenue of the establishment; provided, that it does not share space with any other establishment”
- ✓ A tobacco bar, meaning “a restaurant, tavern, brew pub, club, or nightclub that generates 10% or more of its total annual revenue from the on-site sale of tobacco products, excluding sales from vending machines”
- ✓ “An outdoor area of a restaurant, tavern, club, brew pub, or nightclub”
- ✓ “A hotel room or motel room rented to one or more guests”
- ✓ “A medical treatment, research, or non-profit institution where the activity of smoking is conducted for the purpose of medical research or is an integral part of a smoking cessation program”
- ✓ “Theatrical productions”

Economic hardship waiver

The law authorizes the Mayor to grant a waiver to establishments that can demonstrate to the satisfaction of the Mayor that compliance with the law “has caused or will cause undue financial hardship.” An establishment must have been in existence on or before January 1, 2007, to qualify for a waiver. If the establishment is a restaurant and qualifies for a waiver, the area where smoking is permitted may not exceed 25% of the total area of the establishment. The establishment may also be subject to additional conditions or restrictions that may be necessary to minimize the effects of smoking.

Signage

The law requires posting of a “no smoking” sign. It is important for business owners to communicate to customers about smoking prohibitions and exceptions. The District of Columbia Department of Health also has copies of the law as well as signs for your convenience. To inform patrons of the establishment’s status, businesses should post a smoking designation sign, visible to the public, stating that smoking is not allowed.

To respond to any questions you may have about your status or how best to comply with the law the Department of Health will, beginning in March, conduct business roundtables where you can ask questions and receive further information about the law.

You can obtain copies of the law, language for signage, a schedule of business roundtables, and other relevant information by calling The Department of Health, Tobacco Control Program at (202) 671-5000.

Sincerely,



Gregg A. Pane M.D., MPA
Director
Department of Health